IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 12 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UNITED INDIA ASSURANCE COMPANY
Versus
AMARSINH NATHAJI THAKORE & OTHERS

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Appearance :
MR ADIL MIRZA for MR RR MARSHALL for Appellant.
None for respondents No. 1 and 2.
MR SAVAN PANDYA for MR NILESH A PANDYA for Respondent No.3

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 30/07/2007

ORAL JUDGMENT

The appellant Insurance Company being aggrieved by the award dated 23.05.85 passed by the Motor Accident Claims Tribunal [Main], Bharuch in MACP No. 284 of 1982 is before this Court with a submission that the Tribunal was unjustified in holding he Insurance Company liable.

Short facts necessary for the disposal of the present appeal are that original claimant, Amarsinh Nathaji Thakore, was driver in truck bearing registration No. GTF 3899. The truck was driven by Devjibhai Ramjibhai Thakore, owned by Premjibhai Fuljibhai Chaudhari and was insured with the present appellant. Undisputedly, the truck met with an accident and the claimant Amarsinh Nathaji Thakore suffered certain injuries and therefore he filed the claim petition. The Insurance Company submitted before the Tribunal that in terms of the policy, risk of only one driver and one cleaner is covered and as the claimant was a second driver, the Tribunal could not direct the appellant to answer the claim made by the second driver.

It is not in dispute before me that the claimant was employed as a driver by Premjibhai Fuljibhai Chaudhari, the owner of the truck. It is also not uncommon to have two drivers if the truck has to travel a long distance. In such a case, the person on the driver's seat would be a driver but the person not holding the driver's seat would also be taken to be a driver. The insurance policy covers the risk of a driver, and not of a person “who is driving the vehicle”. In the present case, if there were two drivers, then the word driver, though is used in singular sense, would also include plural under the provisions of the General Clauses Act and, therefore, the

risk of both the drivers would stand covered.

Learned counsel for the appellant contended that the second driver would be taken to be a gratuitous passenger. However, in view of the findings recorded by the Tribunal that he was employed as a driver by the owner of the vehicle, there is no scope to hold that the claimant would be deemed to be a gratuitous passenger. I find no merit in this submission.

I find no reason to interfere. The appeal is dismissed. No costs.

[R.S.GARG, J.]

Mathew